

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Qwest Communications Company, LLC	:	
Currently known as Qwest	:	
Communications Corporation	:	
	:	08-0557
Application pursuant to Sections 13-403,	:	
13-404 and 13-405 of the Public Utilities	:	
Act for certificates of local and interexchange	:	
service authority in the State of Illinois.	:	

**DRAFT ORDER SUBMITTED BY APPLICANT**

By the Commission:

**I. Procedural History**

On September 29, 2008, Qwest Communications Company, L.L.C. ("Applicant"), currently known as Qwest Communications Corporation ("QCC"), filed a verified application with the Illinois Commerce Commission ("Commission"), pursuant to Sections 13-403, 13-404 and 13-405 of the Public Utilities Act ("Act"), 220 ILCS 5/13-403, 13-404, 13-405, for a certificate or certificates of service authority to operate as a facilities-based carrier of interexchange and local exchange telecommunications services, and to provide such services as a reseller, in Illinois. As explained more fully herein, the Application stated Applicant will be formed by the conversion of QCC, a Delaware corporation that holds certificates of service authority from the Commission, into a Delaware limited liability company ("LLC"), pursuant to applicable provisions of Delaware statutes. As a result, the Application requested issuance to Applicant of the same certificates of service authority presently held by QCC, and cancellation of the certificates held by QCC, with both actions to be effective on the date of the conversion of QCC to a LLC. At the hearing in this docket, Applicant's counsel stated that the scheduled effective date of the conversion is January 2, 2009.

Pursuant to due notice, a hearing was held in this matter before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois, on October 29, 2008. Appearances were entered by counsel on behalf of Applicant and by a representative of the Commission Staff ("Staff"). At the conclusion of the October 29, 2008 hearing, the matter was marked "Heard and Taken." Thereafter, Applicant filed a draft order to which Staff indicated it had no objection.

**II. Background; Planned Conversion and Request for Certificates**

QCC is a Delaware corporation with its headquarters in Denver, Colorado. (Application ("App.") ¶1.) QCC is a wholly owned subsidiary of Qwest Services Corporation ("Qwest Services"), which is in turn a subsidiary of Qwest Communications

International, Inc. ("QCC"), a publicly-traded corporation. (App. ¶2 n.1.) QCC provides telecommunications services in all 50 states, the District of Columbia and Puerto Rico. (App. ¶4.) In Illinois, QCC was granted certificates of service authority to provide resold and facilities-based interexchange telecommunications services and local exchange telecommunications services by Commission Orders issued, respectively, on June 3, 1999 in Docket 99-0143 (local exchange) and on June 17, 1998 in Docket 98-0353 (interexchange). (*Id.*) QCC provides interexchange telecommunications services, including switched long distance, private line, data and internet services, associated operator and directory services, and alternative operator services, in Illinois. (*Id.*) QCC also provides local exchange services, currently through resale, as a competitive local exchange carrier in various areas of Illinois. (*Id.*)

The Application states that Applicant is to be formed by the conversion of QCC to a Delaware LLC, pursuant to Section 266 of the General Corporation Law of Delaware (8 Del. Code §266) and Section 18-214 of the Delaware Limited Liability Company Act (6 Del. Code §18-214). (App., ¶1.) The conversion is planned to occur effective January 2, 2009. Upon the conversion, Applicant will continue to have its headquarters in Denver, Colorado. (*Id.*) The Application states that there will be no changes in operations as a result of this transaction other than the conversion from a corporation to an LLC. (*Id.*) The Application states that pursuant to the Delaware statutory provisions, upon the conversion of QCC to an LLC, Applicant will be deemed to be the same entity as, and will remain vested in the rights, privileges, powers, properties, assets, duties, liabilities and obligations of, QCC. (App. ¶3.) Nonetheless, it is necessary for Applicant to apply for and be granted certificates of service authority in Applicant's own name, in order for Applicant to have the necessary certificate authorities to continue providing the telecommunications services presently provided by QCC in Illinois, upon the conversion, with no interruption in service to customers. (App. ¶¶3-5.)

The Application states that the steps in the conversion of QCC, a corporation, to a LLC will be (i) approval of the conversion by QCC's board of directors and sole shareholder, Qwest Services, and (ii) the filing of a Certificate of Conversion to Limited Liability Company and a Certificate of Conversion of Limited Liability Company with the Delaware Secretary of State. (App. ¶2.) Upon the filing of these certificates with, and acceptance by, the Delaware Secretary of State, Applicant will be able to obtain issuance of a certificate of good standing from the Delaware Secretary of State, evidencing that Applicant is a LLC, duly organized and in good standing under the laws of Delaware; and a certificate of authority to transact business in Illinois from the Illinois Secretary of State. (*Id.*) The Application states that Applicant will file with the Chief Clerk of the Commission copies of the Certificate of Conversion to Limited Liability Company, the Certificate of Formation of Limited Liability Company, the certificate of good standing issued by the Delaware Secretary of State, and the certificate of authority to transact business issued by the Illinois Secretary of State, within 14 days following the effective date of the conversion of QCC to a LLC. (*Id.*)

The Application provided information intended to show that upon the conversion of QCC to a LLC, Applicant will continue to possess the requisite financial, technical and

managerial qualifications for issuance of the requested certificates and to provide the same telecommunications services in Illinois presently provided by QCC. The Application states that other than the change in form of business organization from a corporation to a LLC, Applicant will be the same company as QCC. (App. ¶6.) Upon the conversion of QCC to a LLC, the property, plant, equipment, financial assets and liabilities, management, employees, leases and other contract rights and obligations of QCC will remain vested in Applicant, the LLC. (*Id.*) QCC currently employs approximately 1,850 persons with a broad range of technical, engineering, construction, operational, financial and managerial expertise, who will become employees of Applicant. (App. Attachment (“Att.”) 1, Appendix (“App.”) A, items 15 and 26.) In addition, as QCC currently does, Applicant will continue to obtain facilities and services, including management, operational, technical and financial services, from its affiliates including Qwest Corporation, which is an incumbent local exchange carrier (“ILEC”) in 14 states and employs over 30,000 persons. (App. ¶6 and Att. 1, App. A, item 26.) The Application described fiber optic systems, switches and other equipment, leases and interconnection agreements used by QCC to provide service in Illinois; upon the conversion of QCC to a LLC, Applicant will continue to be the owner or lessee of these facilities and equipment and will continue to obtain switching, transport and local delivery services from other carriers. (App., Att. 1, item 26.) Additionally, the Application included a set of current financial statements for QCC, as well as financial statements of the publicly-traded parent company, QCII. (App. Exhibits 3 and 4.)

The Application states that the conversion of QCC to a LLC will be seamless and transparent to customers. Following the conversion, Applicant will provide the same telecommunications services, at the same rates, as QCC is currently providing to customers in Illinois, and will honor and perform all obligations of QCC under services contracts with customers. (App. ¶7.) Additionally, the conversion will have no effect on QCC’s billing practices; procedures for handling service, billing and repair complaints; or practices for preventing “slamming” and “cramming”, all of which will be adhered to by Applicant. (App., Att. 1, items 17, 18, 22.) Further, after QCC is converted to a LLC, Applicant will continue to comply with the Commission’s regulations in 83 Ill. Admin. Code Parts 705, 720, 725, 730, 732, 735, 755, 756, 757, 770 and 772 to the extent applicable to its operations. (App., Att. 1, item 23.)

Applicant requests that the Commission grant waivers of certain Commission regulations. Specifically, Applicant requests waivers of (i) 83 Ill. Admin. Code Part 710, Uniform System of Accounts for Telecommunications Carriers; (ii) with respect to Applicant’s provision of interexchange services, 83 Ill. Admin. Code Part 735, Procedures Governing the Establishment of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois; and (iii) with respect to Applicant’s provision of local exchange service, 83 Ill. Admin. Code §735.180, Directories. The Application states that the Commission granted waivers of these same provisions to QCC in the Orders in Dockets 99-0143 and 98-0353 granting certificates of local exchange and interexchange service authority. (App. ¶9 and Att. 1, item 3.)

Applicant also requests permission pursuant to 83 Ill. Admin. Code Part 250 to keep its books and records outside the State of Illinois. The Application states that as a provider of telecommunications services in 50 states, the District of Columbia and Puerto Rico, QCC maintains its books and records at its corporate headquarters offices in Denver, Colorado, and Applicant will continue to maintain its books and records at the same corporate headquarters in Denver, Colorado. The Application states that in the Commission's Orders in Dockets 99-0143 and 98-0353, permission was granted to QCC to maintain its books and records at its corporate headquarters in Denver, Colorado. (App., ¶10 and Att. 1, item 13.)

Finally, the Application requests that the Order in this docket specify that the non-public financial statements of QCC submitted as confidential Exhibit 3 to Attachment 1 shall receive confidential and proprietary treatment pursuant to 220 ILCS 5/4-403 and 83 Ill. Admin. Code §200.430, and will continue to be treated as confidential and proprietary for five years following the date of the Application. (App. ¶11.)

### **III. Staff Position**

At the October 29, 2008, hearing in this docket, Ms. Karen Chang, a representative of the Telecommunications Division of the Bureau of Public Utilities of the Commission, appearing on behalf of Staff, stated that Staff recommended the Commission grant the Application.

### **IV. Commission Conclusions**

Based on its review of the verified Application, the Commission concludes that upon the effective date of the conversion of QCC to a LLC, the Applicant, Qwest Communications Company, LLC, should be granted certificates of service authority to provide facilities-based and resold interexchange and local exchange telecommunications services within the State of Illinois pursuant to Sections 13-403, 13-404 and 13-405 of the Act. As described in Section II of this Order, other than the change in form of business organization from a corporation to a LLC, Applicant will be the same company as QCC, which currently holds certificates of service authority from the Commission. The Application shows that the financial, technical and managerial resources of QCC, the existing certificate-holder, will become the financial, technical and managerial resources of Applicant. In addition, Applicant will use the same tariffs as QCC, and will employ the same billing practices and the same procedures for service, billing and repair complaints, as are currently employed by QCC. The telecommunications services provided by Applicant in Illinois, following the conversion to an LLC, will be the same services currently provided by QCC.

In addition, upon the effective date of the conversion of QCC to a LLC, the certificates of service authority granted to QCC in Dockets 98-0353 and 99-0143 should be cancelled.

The Commission also finds that waivers of 83 Ill. Admin. Code Parts 710, 735, and 735.180 (Directories) should be granted to Applicant as and to the extent requested in the Application, effective on the date of conversion of QCC to a LLC. These are the same waivers granted to QCC in the Orders in Dockets 98-0353 and 99-0143 granting it certificates of service authority. Pursuant to Section 13-402 of the Act, 220 ILCS 5/13-402, such waivers will reduce the economic burden of regulation on the Applicant and will not be inconsistent with the law or the purposes and policies of Article XIII of the Act. The waiver of 83 Ill. Admin. Code §735.180 is granted to Applicant with respect to its provision of local exchange service, on condition that it contracts with an ILEC or ILECs to include Applicant's customer listings in the ILEC directories. The waiver of 83 Ill. Admin. Code 710 is granted to Applicant on condition that Applicant maintains its accounting records in accordance with Generally Accepted Accounting Principles.

Additionally, the Commission finds that Applicant should be granted permission, pursuant to 83 Ill. Admin. Code Part 250, to keep its books and records outside the State of Illinois, at Applicant's corporate headquarters in Denver, Colorado. In its Orders in Dockets 98-0353 and 99-0143 granting certificates of service authority to QCC, the Commission granted QCC permission to maintain its books and records at the corporate headquarters in Denver, Colorado.

The Commission notes that as of the date of this Order, the Applicant, Qwest Communications Company, LLC, has not yet been formed, and will not be formed until the conversion of QCC to a LLC, which is planned to be January 2, 2009. This is a necessary consequence of the Delaware statutory provisions, discussed above, for conversion of a Delaware corporation to a Delaware LLC, which provide for the conversion directly from corporation form of organization to LLC form of organization. The Application has been timely filed in advance of the date of conversion to ensure that upon the effective date of the conversion, Applicant will hold the necessary certificates of service authority to continue to provide the same telecommunications services in Illinois currently provided by QCC, with no interruption to customers. The Commission emphasizes, however, that the certificates of service authority granted by this Order to Applicant are not effective until the date of the conversion of QCC to a corporation; and that the certificates of service authority presently held by QCC, and QCC's obligations as a certificated telecommunications in Illinois, continue in effect until such date. Further, the certificates of service authority granted by this Order are conditioned on the filing by Applicant with the Chief Clerk of the Commission, within fourteen (14) days following the effective date of the conversion of QCC to a LLC, the following documents: the Certificate of Conversion to Limited Liability Company, the Certificate of Formation of Limited Liability Company, Applicant's certificate of good standing issued by the Delaware Secretary of State, and Applicant's certificate of authority to transact business in Illinois issued by the Illinois Secretary of State.

Finally, the Commission finds and directs that the financial statements of QCC filed as confidential Exhibit 3 to Attachment 1 to the Application should receive confidential and proprietary treatment by the Commission pursuant to Section 4-403 of

the Act and 83 Ill. Admin. Code §200.430 for five (5) years following the date of the Application, *i.e.*, until September 29, 2013.

## **V. Findings and Ordering Paragraphs**

The Commission, after reviewing the verified Application and the entire record herein, is of the opinion and finds that:

- (1) Qwest Communications Corporation is, and upon QCC's conversion to a limited liability company, Applicant Qwest Communications Company, LLC will be, a telecommunications carrier as defined in Article XIII of the Act;
- (2) the Commission has jurisdiction over QCC and the Applicant and of the subject matter herein;
- (3) the facts recited and the conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings herein;
- (4) Certificates of Service Authority should be granted to Applicant Qwest Communications Company, LLC, pursuant to Sections 13-403, 13-404 and 13-405 of the Act as set forth below, with such Certificates of Service Authority to be effective on the effective date of the conversion of QCC to a limited liability company;
- (5) Upon the effective date of the conversion of QC to a LLC, the Certificates of Authority issued to QCC in Dockets 98-0353 and 99-0143 should be cancelled;
- (6) Within fourteen (14) days after the effective date of the conversion of QCC to a LLC, which is presently scheduled to occur on January 2, 2009, Applicant shall file with the Chief Clerk of the Commission the following documents: the Certificate of Conversion to Limited Liability Company, the Certificate of Formation of Limited Liability Company, the certificate of good standing issued by the Delaware Secretary of State, and the certificate of authority to transact business in the State of Illinois issued by the Illinois Secretary of State;
- (7) Waivers should be granted to Applicant (i) with respect to its provisions of local exchange service, from the requirements of 83 Ill. Adm. Code 735.180, on condition that Applicant will meet the obligation to list its customers in a directory by making arrangements to list them in one or more directories published by an ILEC or ILECs; (ii) with respect to its provision of local and interexchange services, from the requirements of 83 Ill. Adm. Code 710, so long as Applicant maintains its accounting records in accordance with generally accepted accounting principles; and (iii) with

respect to Applicant's provision of interexchange services, from the requirements of 83 Ill. Adm. Code 735;

- (8) Applicant should be permitted to maintain its books and records outside the State of Illinois, at its corporate headquarters in Denver, Colorado, pursuant to 83 Ill. Admin. Code Part 250;
- (9) Applicant should file with the Commission its tariffs for interexchange and local exchange services, to be effective on the effective date of the conversion of QCC to a LLC, before Applicant provides telecommunications services pursuant to the Certificates of Service Authority granted herein;
- (10) QCC should file with the Commission cancellation sheets for its tariffs for interexchange and local exchange services, with such cancellation sheets to be effective upon the effective date of the conversion of QCC to a LLC;
- (11) An annual report of QCC for the year 2008 should be filed with the Commission; and
- (12) Confidential Exhibit 3 to Attachment 1 of the Application, and the financial statements of QCC comprising that Exhibit, should be treated as confidential and proprietary by the Commission, pursuant to Section 4-403 of the Act and 83 Ill. Admin. Code §200.430, until September 29, 2013.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Certificates of Service Authority are hereby granted to Qwest Communications Company, LLC, pursuant to Sections 13-403, 13-404 and 13-405 of the Act, as follows:

**CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY**

IT IS HEREBY CERTIFIED that Qwest Communications Company, LLC, is authorized, pursuant to Section 13-403 of the Public Utilities Act, to provide facilities-based interexchange telecommunications services within the State of Illinois.

**CERTIFICATE OF SERVICE AUTHORITY**

IT IS HEREBY CERTIFIED that Qwest Communications Company, LLC, is authorized, pursuant to Section 13-404 of the Public Utilities Act, to provide resold local and interexchange telecommunications services within the State of Illinois.

**CERTIFICATE OF EXCHANGE SERVICE AUTHORITY**

IT IS HEREBY CERTIFIED that Qwest Communications Company, LLC, is authorized, pursuant to Section 13-405 of the Public Utilities Act, to provide facilities-based local exchange telecommunications services within the State of Illinois.

IT IS FURTHER ORDERED that the Certificates of Service Authority issued above shall be effective on the effective date of the conversion of Qwest Communications Corporation to a limited liability company in accordance with the provisions of Section 266 of the Delaware General Corporation Law and Section 18-214 of the Delaware Limited Liability Company Act.

IT IS FURTHER ORDERED that the Certificates of Service Authority issued to Qwest Communications Corporation on June 17, 1998 in Docket 98-0353 and on June 3, 1999 in Docket 99-0143, are hereby cancelled on the effective date of the conversion of Qwest Communications Corporation to a limited liability company.

IT IS FURTHER ORDERED that Applicant Qwest Communications Company, LLC is granted waivers from certain requirements of Commission regulations at 83 Illinois Admin. Code Parts 710, 735 and 735.180. as found appropriate and subject to the conditions set forth in Finding (7) and the prefatory portion of this Order.

IT IS FURTHER ORDERED that Applicant Qwest Communications Company, LLC is granted permission to maintain its books and records at its corporate headquarters in Denver, Colorado, as described in Finding (8) and the prefatory portion of this Order, pursuant to 83 Illinois Admin. Code Part 250.

IT IS FURTHER ORDERED that as conditions of this Order, Qwest Communications Corporation and/or Applicant Qwest Communications Company, LLC, as applicable, shall comply with Findings (6), (9), (10) and (11) of this Order.

IT IS FURTHER ORDERED that Confidential Exhibit 3 to Attachment 1 of the Application, and the financial statements of QCC comprising that Exhibit, shall be treated as confidential and proprietary by the Commission, pursuant to Section 4-403 of the Act and 83 Ill. Admin. Code §200.430, until September 29, 2013, as described in Finding (12) and the prefatory portion of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Admin. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this \_\_\_ day of \_\_\_\_\_, 2008.

(SIGNED) CHARLES E. BOX  
Chairman